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18 UNITED STATES DISTRICT COURT

19 NORTHERN DISTRICT OF CALIFORNIA

20 SAN FRANCISCO DIVISION

21
22 IN RE: UBER TECHNOLOGIES,
23 INC., PASSENGER SEXUAL
24 ASSAULT LITIGATION

25 Case No. 3:23-md-03084-CRB

26 DEFENDANTS UBER TECHNOLOGIES,
27 INC., RASIER, LLC, AND RASIER-CA, LLC'S
28 SUBMISSION OF SETTLEMENT
AGREEMENTS AND PROTECTIVE ORDERS

25 This Document Relates to:

26 Judge: Hon. Lisa J. Cisneros
27 Courtroom: G – 15th Floor

28 ALL ACTIONS

1 Per the Court's direction during the February 22, 2024, hearing and in the subsequent minute
 2 entry (ECF No. 283), Defendants Uber Technologies Inc., Rasier, LLC, and Rasier-CA, LLC
 3 (collectively, "Uber") submit examples of protective orders and a dispute-resolution agreement
 4 pertaining to resolved cases involving alleged sexual assault by drivers using the Uber application. *See*
 5 Exhibits A, B, C, and D. Uber has amended their February 22, 2024 filing in compliance with the
 6 Court's February 29, 2024 Order (ECF No. 305).

7 Uber is committed to user privacy principles, whether it is for the 86 rides associated with this
 8 request or for the billions of rides completed each year. *See* 2019-2020 US Safety Report at 37 *at*
 9 https://uber.app.box.com/s/vkx4zgwy6sxx2t2618520xt35rix022h?uclick_id=62fc0498-4441-4521-9197-1bb08c7f63ce (noting there were 1.4 billion Uber rides in 2019 in the United States
 10 alone). The Federal Rules underscore that Uber should not be ordered to provide confidential rider
 11 information that is subject to these agreements and protective orders that has no relevance to an
 12 element of a claim in this litigation. Maintaining confidentiality for survivors of sexual assault is
 13 paramount, extending beyond just their identities to include the details of their assault, as advocated
 14 by sexual assault support groups.¹ Revealing the underlying facts and circumstances of the assault,
 15 even with anonymized identities, risks re-traumatizing victims and may amplify their distress or
 16 humiliation. Protecting this confidentiality is crucial to prevent additional harm and ensure survivors
 17 feel safe reporting incidents.

19 Furthermore, specific to the cases at issue, the agreements and protective orders have varying
 20 confidentiality provisions that reflect the parties' efforts to protect the highly-sensitive plaintiff-
 21 specific materials from disclosure outside of the individual lawsuits. These provisions strictly prohibit
 22

23 ¹ Advocacy groups consistently seek to support survivors' rights and protect from disclosure survivors' personal information and information about their reported incidents. *See, e.g.*, Letter from Yolanda Edrington, Respect Together CEO, to Magistrate Judge Lisa Cisneros (Feb. 26, 2024), attached as Exhibit E; Letter from Sandra Henriquez, California Coalition Against Sexual Assault CEO, to President Marybel Batjer and the Commissioners of the California Public Utilities Commission (Jan. 17, 2020), attached as Exhibit F; Letter from the Karen Baker, Pennsylvania Coalition Against Rape and National Sexual Violence Resource Center CEO to the California Public Utilities Commission (Jan. 16, 2020), attached as Exhibit G; Letter from Deborah Vagins, National Network to End Domestic Violence CEO and President, to President Marybel Batjer and the Commissioners of the California Public Utilities Commission (Jan. 14, 2020), attached as Exhibit H.

1 disclosure of confidential information, even after the termination of the litigation, and some of the
 2 agreements do not even provide for disclosure made pursuant to a court order in another case. *See,*
 3 *e.g.*, April 20, 2021, Stipulation for Protective Order and Protective Order (“Confidential Information
 4 shall not be used, shown, disseminated, copied, or in any way communicated, orally or verbally, to
 5 anyone for any purpose whatsoever, other than as required for the preparation and trial of this action.”),
 6 attached as Exhibit A; December 20, 2019 Stipulated Protective Order (“Confidential Information
 7 shall not be used, shown, disseminated, copied or in any way communicated, orally or verbally, to
 8 anyone for any purpose whatsoever, other than as required for the preparation and trial of this action.”),
 9 attached as Exhibit B; April 17, 2017 Stipulation and Protective Order (“All Confidential Information
 10 provided by a Party in response to a discovery request or transcribed testimony . . . shall be used only
 11 for the purpose of this litigation and not for any business or other purpose whatsoever [and] shall not
 12 be communicated or disclosed by any Party’s counsel or a Party in any manner, either directly or
 13 indirectly, to anyone except for purposes of this case . . .”), attached as Exhibit C. And some of the
 14 settlement agreements require Uber to provide notice to the Plaintiff before any required disclosure.

15 *See, e.g.*, June 23, 2021, Confidential Settlement Agreement and Release of All Claims (“
 16 [REDACTED]
 17 [REDACTED]
 18 [REDACTED]
 19 [REDACTED].”), attached as Exhibit D. Nonconsensual disclosure of private information about
 20 these individuals’ reports of sexual assault—which these individuals were under the reasonable belief
 21 would be protected from disclosure to yet another wave of lawyers and consultants as a result of their
 22 contractual confidentiality agreements—would be inconsistent with the protections of the Federal
 23 Rules against discovery that would serve to annoy, embarrass, oppress, or harass. FED. R. CIV. P.
 24 26(c)(1)(A) (a court may forbid discovery “to protect a party or person from annoyance,
 25 embarrassment, [or] oppression . . .”); FED. R. CIV. P. 26(g)(1)(B)(ii) (discovery requests must not
 26 be “interposed for any improper purpose, such as to harass”).
 27
 28

1 Additionally, as previously noted, it is consistently believed by survivor advocates in this field,
 2 that there is an even greater need to protect nonparties' privacy in these particular circumstances since
 3 disclosure of such information would violate people who have already been victimized, which has a
 4 chilling effect on future victims reporting incidents, and discourages companies from accurately
 5 tracking and sharing information about sexual abuse.² Such disclosure would share painful details
 6 about the assault and other information (like time and place of the incident) that, even if the victims'
 7 names were withheld, could still identify and endanger survivors of sexual assault. For survivors of
 8 sexual violence, privacy and confidentiality of their personal information is more than an expectation,
 9 it is a critical matter of personal safety and security. Requiring a disclosure of the personal details of
 10 victims sexual assault, who are generally the "witnesses" reporting the incident, would have a chilling
 11 effect on survivors who may opt not to report instances of sexual assault for fear that their stories will
 12 be shared without their consent.

13 Violating these nonparties' privacy and confidentiality concerns memorialized in their
 14 agreements and protective orders would be especially inappropriate and unnecessary here because
 15 Plaintiffs do not have an "actual need" for the plaintiff-specific materials.³ The Federal Rules prohibit
 16 discovery that is disproportionate to the needs of the case, considering, among other things, "the
 17 importance of the discovery in resolving the issues." FED. R. CIV. P. 26(b)(1); *see also* FED. R. CIV. P.
 18 26(g)(1)(B)(iii) (discovery requests must not be "unreasonable . . . considering the needs of the case .
 19 . ."). In his 2015 year-end report, Chief Justice John Roberts explained that amended Rule 26(b)(1)
 20 limits discovery to what parties actually need to prove their case: "Specifically, the pretrial process
 21 must provide parties with efficient access to what is needed to prove a claim or defense, but eliminate
 22

23 ² See, e.g., Letter from Yolanda Edrington, Respect Together CEO, to Magistrate Judge Lisa Cisneros
 24 (Feb. 26, 2024) (Ex. E); Letter from Sandra Henriquez, California Coalition Against Sexual Assault
 25 CEO, to President Marybel Batjer and the Commissioners of the California Public Utilities
 26 Commission (Jan. 17, 2020) (Ex. F); Letter from the Karen Baker, Pennsylvania Coalition Against
 27 Rape and National Sexual Violence Resource Center CEO to the California Public Utilities
 28 Commission (Jan. 16, 2020) (Ex. G); Letter from Deborah Vagins, National Network to End Domestic
 Violence CEO and President, to President Marybel Batjer and the Commissioners of the California
 Public Utilities Commission (Jan. 14, 2020) (Ex. H).

3 Especially in light of the lack of need, Plaintiffs should adhere to the feedback from the advocacy
 space to provide survivors with the agency of choice regarding disclosure.

1 unnecessary or wasteful discovery. The key here is careful and realistic assessment of actual need.”
 2 See 2015 Year-End Report on the Federal Judiciary (Dec. 31, 2015) at
 3 <https://www.supremecourt.gov/publicinfo/year-end/2015year-endreport.pdf>. The reasons Plaintiffs
 4 outlined for wanting these documents, notice and pattern or practice, are served by information already
 5 available in the public record, including date of ride, date of resolution, etc. Therefore, not only would
 6 the production of the highly-sensitive plaintiff-specific materials be unnecessary, it would also be
 7 duplicative. See FED. R. CIV. P. 26(b)(2)(C) (a party also may not obtain discovery that “is
 8 unreasonably cumulative or duplicative, or can be obtained from some other source that is more
 9 convenient . . .”). Plaintiffs will also have the opportunity to obtain discovery relating to notice and
 10 pattern or practice from Uber’s document productions, discovery responses, and depositions.

11 For these reasons, and those stated within its Motion to Modify Pretrial Order No. 5 (ECF No.
 12 251), Uber respectfully requests that the Court modify PTO No. 5 such that Uber need not produce
 13 plaintiff- and case-specific documents from other lawsuits.

14
 15 DATED: March 1, 2024

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